

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

June 7, 2007

A meeting of the Board of Environmental Protection was held on Thursday, June 7, 2007 at the Holiday Inn / Ground Round, Augusta, Maine. Virginia Plummer, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler

Absent: Nancy Anderson and Denis Culley

<u>Staff:</u>	Bureau of Land and Water Quality	Amy Lemelin
	Bureau of Land and Water Quality	Mike Mullen
	Bureau of Land and Water Quality	Denis Merrill
	Bureau of Land and Water Quality	Jim Cassida
	Bureau of Air Quality	Andrea Lani
	Bureau of Air Quality	Marc Cone
	Bureau of Air Quality	Deb Avalone-King

Others: Deborah Garrett, Deputy Commissioner
Mary Sauer, Assistant Attorney General
Peggy Bensinger, Assistant Attorney General for Workshop only
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 12:35 a.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner Deb Garrett reported:

Board membership: The Joint Standing Committee on Natural Resources recently confirmed two Board members, Matt Scott for a second term and Sue Lessard for a first term. Ms. Lessard has 24-years of town manager experience serving various Maine municipalities and is currently town manager for the Town of Hampden. The Committee members expressed both respect and praise for Mr. Scott and Ms. Lessard.

Legislative: The Legislative session is scheduled to close on June 20th. The budget was passed with a strong bipartisan vote that leaves only a few matters left for the Department to track.

Bills completed are: (1) a bill signing will occur next week concerning the ban on Deca as a component of certain flame retardants; (2) Water withdrawal amendments were approved; (3) Regional Haze bill was approved which provides the Department with authority to impose additional controls if needed to improve visibility in areas like Acadia; (4) Regional Greenhouse Gas Initiative is proceeding with a strong vote of support in both the House and Senate.

Bills pending are: (1) Shorebird habitat bill has been amended and is working its way through the Houses; (2) Outdoor Wood Boilers; and (3) The bill to authorize the Department of Agriculture to oversee composting. (It was noted that the composting matter may be of interest to environmental groups.)

Tuesday, June 12th Maine citizens will have an opportunity to support an environmental bond that could result in \$14.9 million dollars for wastewater improvements.

Air Quality Health Alerts: Air quality impacts from the wildfires in the Southern US and Canada resulted in the Department issuing an air health alert. Individuals may utilize a new electronic mechanism that allows you to receive health alerts based on your individual level of interest. The Deputy Commissioner offered to provide information on how to sign up for this service.

Training: The Department is conducting training for the volunteer lake monitoring program at Lake Auburn tomorrow.

Appeal: The Department has received an appeal of the non-hazardous waste transporter license issued to Mr. David Torres. This permit was inadvertently issued without conditions. The Lakes Environmental Association and the Department simultaneously noticed this error; as a result, the DEP will seek to modify the license through provisions of Chapter 2, Section 27 and petition the Board for modification to add conditions to the non-hazardous transporter license of Mr. Torres.

Jurisdiction: The Department received two requests for BEP Jurisdiction. One request was associated with a stormwater permit for construction of an access road to a subdivision and the second request was for variance provisions concerning a gravel pit in China. Neither of these two requests meet the criteria for BEP jurisdiction.

QUESTIONS:

Chair Plummer asked about the timing on the petition concerning David Torres.

Deputy Commissioner Garrett speculated that the Department would submit its petition for consideration at the next regular meeting, June 21st.

Board member M. Wing Goodale asked if changes were made to the vernal pool rule as a result of the Legislative review process.

The Deputy Commissioner advised that there were no amendments to the rule.

B. COMMENTS FROM THE BEP CHAIR:

Board Chair Plummer thanked Board member Nancy Ziegler for chairing the prior regular meeting. Ms. Plummer further noted that today's workshop on the Site Law and the DEP application process was scheduled in response to discussions by the Board members at the May 17th meeting. Ms. Plummer also mentioned that no pending application would be discussed during this workshop.

Downeast LNG, Downeast Pipeline – Chairwoman Plummer reported that the pre-filed direct testimony for the Downeast LNG gas storage facility and pipeline project have been provided to members today with the exception of the testimony submitted by Save Passamaquoddy Bay et. Al. (SPB). The applicant has filed a motion to strike the testimony of SPB and the ruling on this matter will determine if the testimony will or will not be provided to Board members.

C. EXECUTIVE ANALYST COMMENTS: NONE

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

Board voted (8-0-0-2) to approve consent agenda items 1, 2, 3, 4 and 5 as presented.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

1. GEO. T. SPRINGER COMPANY d.b.a. SPRINGER'S JEWELERS, Portland – Administrative Consent Agreement and Enforcement Order (BRWM)
2. O'CONNOR BUICK PONTIAC GMC, INC., Augusta – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
3. DRAKE PETROLEUM COMPANY, INC., d.b.a. WELLS XTRA MART, Wells, – Administrative Consent Agreement (BAQ)
4. FORMED FIBER TECHNOLOGIES, L.L.C, Auburn – Administrative Consent Agreement (BAQ)
5. TOWN OF MACHIAS, Machias – Administrative Consent Agreement and Enforcement Order (BLWQ – Water)

II CONSENT AGENDA ITEMS (CONTINUED)

Board voted (8-0-0-2) to approve consent agenda item 6 as presented.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

6. MARK SIEGENTHALER, Lincolnville – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

III. Regular Agenda

1. CHAPTER 152, CONTROL OF EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER PRODUCTS / AMENDMENTS (post to public hearing)

Staff: Andrea Lani, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to post to public hearing amendments to Chapter 152, Control of Emissions of Volatile Organic Compounds from Consumer Products. The amendments would establish emission limits for an additional 20 categories of products by limiting specific volatile compounds contained in these products. The hearing will be held on Thursday, August 2, 2007 at the Holiday Inn / Ground Round, Augusta, with August 17, 2007 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. section 341-D(1-B).

Board members Elizabeth Ehrenfeld, Richard Gould, M. Wing Goodale, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

2. CHAPTER 121 EMISSION LIMITATIONS AND EMISSION TESTING OF RESOURCE RECOVERY FACILITIES and STATE OF MAINE 111(d) MUNICIPAL WASTE COMBUSTOR (MWC) STATE PLAN FOR LARGE AND SMALL (CLASS I & II) FACILITIES REPEALED AND REPLACED 2007 (adoption and approval)

Staff: Deb Avalone-King, Bureau of Air Quality

The Board voted (8-0-0-0-2) on a motion to adopt amendments to Chapter 121, Emission Limits and Emission Testing of Resource Recovery Facilities as presented. The vote was taken pursuant to 38 M.R.S.A. section 341-D(1-B) and sections 585-A, 585-B and 590 and the Clean Air Act Amendments of 1991.

Board members Elizabeth Ehrenfeld, Richard Gould, M. Wing Goodale, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

2. CHAPTER 121 EMISSION LIMITATIONS AND EMISSION TESTING OF RESOURCE RECOVERY FACILITIES and STATE OF MAINE 111(d) MUNICIPAL WASTE COMBUSTOR (MWC) STATE PLAN FOR LARGE AND SMALL (CLASS I & II) FACILITIES REPEALED AND REPLACED 2007 (adoption and approval) --
CONTINUED

The Board voted (8-0-0-0-2) on a motion to repeal and replace the State of Maine 111(d) Municipal Waste Combustor State Plan for Large and Small Class I and II Facilities with correction to the reference of appendix D to appendix C concerning the legal authority and the inclusion of a February 9, 2007 letter from Gerald Reid concerning authority to implement and enforce the State Plan. The vote was taken pursuant to 38 M.R.S.A. section 341-D(1-B) and sections 585-A, 585-B and 590 and the Clean Air Act Amendments of 1991..

Board members Elizabeth Ehrenfeld, Richard Gould, M. Wing Goodale, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

3. CHAPTER 529, GENERAL PERMITS FOR CERTAIN WASTEWATER DISCHARGES / AMENDMENTS (adoption)

Staff: Dennis Merrill, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to adopt amendments to Chapter 529, General Permits for Certain Wastewater Discharges which provides the Department with authority to issue general permits under the Clean Water Act, allowed for public notice flexibility on a case by case basis and updated statutory references as appropriate. The vote was taken pursuant to 38 M.R.S.A. section 341-D (1-B).

Board members Elizabeth Ehrenfeld, Richard Gould, M. Wing Goodale, Don Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Nancy Anderson and Denis Culley were absent.

WORKSHOP

- Review of Site Law
- Review of DEP Application Process
(Staff: James Cassida, Bureau of Land and Water Quality)

*Next Regular Meeting –Thursday, June 21, 2007 – **Holiday Inn / Ground Round***